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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,030	03/15/2004	Jens Staack	60091.00278	6867
32294 7590 05/12/2009 SQUIRE, SANDERS & DEMPSEY L.L.P. 8000 TOWERS CRESCENT DRIVE 14TH FLOOR VIENNA, VA 22182-6212			EXAMINER GONZALEZ, AMANCIO	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 05/12/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/800,030

**Applicant(s)**

STAACK, JENS

**Examiner**

AMANCIO GONZALEZ

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01/21/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-31, 33-38, 40, 42, 54-57, 59, 60, 63 and 64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-31, 33-38, 40, 42, 54-57, 59, 60, 63 and 64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 26-31, 33-38, 40, 42, 54-57, 59, 60, 63, and 64 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 26-29, 33-36, 40, 42, 56, 57, 59, 60, and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (US 20040203770 A1), hereafter "Chen," in view of Schnake et al. (US 7099659 B1), hereafter "Schnake."

Consider **claim 26** as amended.

Chen discloses

receiving in a mobile terminal belonging to a communication group in a mobile communication system, a triggering message indicating the communication group and informing the mobile terminal of a packet-based service session of the communication group to be initiated (*informing* reads on *announcing* -see par. 0009, par. 0038, par.

0040 lines 7-14, figs. 1 and 5: Chen discusses wherein a group call server triggers target users for establishing group communication by sending an announcement); and

in response to the receiving, bringing the mobile terminal to a state allowing reception of packets from a packet data network belonging to the mobile communication system, to enable participation in the packet-based service session of the communication group, wherein the receiving comprises receiving the triggering message so that the triggering message is receivable from the mobile communication system regardless of whether even when the mobile terminal is read to participate in the packet based service session (see pars. 0038-0040, par. 0045: Chen discusses wherein the group call request may be transmitted regardless of whether the caller's MS, as well as the target group mobile stations, has a dedicated traffic channel or not, e.g., the mobile station is in a dormant mode, and wherein the group call server also determines if the target group of mobile stations selected to participate in the group call is already running in the system).

Chen further discloses triggering a packet-based service session by a message (*announcement* reads on *message* -see pars. 0040), does not disclose wherein a message indicates a starting time, the mobile terminal being brought to said state substantially at said starting time.

Schnake, in related art, discloses wherein a message indicates a starting time, the mobile terminal being brought to said state substantially at said starting time (see claim 1: Schnake discusses a message according to a time-based schedule contained within control instructions, wherein the schedule includes a start-time value that indicates when to start presentation of a message, hence, of a communication session).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Chen and have it include a message according to a time-based schedule contained within control instructions, wherein the schedule includes a start-time value that indicates when to start presentation of a message, as taught by Schnake, thereby providing means for sending control information via SMS for the purpose of simplifying communication initiation in a communication system.

**Claims 33, 42, 57, 60, 63, and 64** as amended address the same subject matter as claim 1, with the following observations:

The expression "unknown attachment status relative to a packet data network," in line 5 of claim 42, lines 4-5 of claim 60, and lines 6-7 of claim 64, is interpreted by the examiner as the expression "regardless of whether the mobile terminal is ready to participate in the packet-based service session" in lines 11-13 of claim 1, which reads on "dormant mode," e.g., "no active dedicated traffic channel," as discussed by Chen (see par. 0045). Therefore same rejection applies.

Consider **claim 27** as amended. Chen as modified by Schnake teaches claim 26; and Chen further discloses establishing a connection to the packet data network packet data connection (see Chen: par. 0026, par. 0040 lines 7-14).

Consider claims **28, 29, 35, and 36** as amended. Chen as modified by Schnake teaches claims 26, 27, 33, and 34 respectively; and Chen further discloses mobile station registration (see Chen: the title, the abstract, par. 0001, 0024, 0026, and 0028).

Consider **claim 34** as amended. Chen as modified by Schnake teaches claim 33; and Chen further discloses establishing connection for data transmission with a previously disconnected mobile terminal with respect to the packet data network (*disconnected* reads on *dormant*—see Chen: pars. 0038-0040).

Consider claims **40 and 56** as amended. Chen as modified by Schnake teaches claims 33 and 42; and Chen further discloses bringing a first mobile station—caller's MS- and a second—target MS- to another state (see Chen: pars. 0038-0040: Chen discusses wherein the group call server brings the mobile stations to the state of a condition to engage in packet communication).

Consider claims **59 and 62** as amended. Chen as modified by Schnake teaches claims 42 and 60; and Chen further discloses sending multimedia messages (*multimedia* read on *data, voice, image, text, video, etc.*—see Chen: par. 0067).

4. Claims **30, 31, 37, and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (US 20040203770 A1), hereafter "Chen," in view of Schnake et al. (US 7099659 B1), hereafter "Schnake," as applied to claims 28, 29, 35,

and 36 respectively, further in view of Zabawskyj (US 20050136952 A1), hereafter "Zabawskyj."

Consider **claims 30, 31, 37, and 38** as amended. Chen as modified by Schnake teaches claims 28, 29, 35, and 36 respectively, but does not disclose push-to-talk over cellular.

Zabawskyj, in related art, discloses push-to-talk over cellular (see par. 0023).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the invention of Chen as modified by Schnake with the teachings of Zabawskyj and have it include push-to-talk over cellular, thereby providing means for group communication in a wide area wireless network.

5. **Claims 54 and 55** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (US 20040203770 A1), hereafter "Chen," in view of Schnake et al. (US 7099659 B1), hereafter "Schnake," as applied to claims 26 and 33 respectively, further in view of Desai et al. (US 7277697 B2), hereafter "Desai."

Consider **claims 54 and 55** as amended. Chen as modified by Schnake teaches claims 26 and 33, but does not disclose prompting a user for accepting a session invitation.

Desai, in related art, discloses prompting a user for accepting a session invitation (see col. 5 lines 27-32).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the invention of Chen as modified by Schnake and

have it include prompting a user for accepting a session invitation, as taught by Desai, thereby providing means for the purpose of establishing a communication with a group inviting participants in non-intrusive manner, as discussed by Desai (see col. 2 lines 14-16).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to



Customer Service Window  
Randolph Building  
401 Delaney Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Amancio Gonzalez, whose telephone number is (571) 270-1106. The Examiner can normally be reached on Monday-Thursday from 8:00 am to 5:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Patrick Edouard, can be reached at (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

AG/ag

April 30, 2009

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/Patrick N. Edouard/

Supervisory Patent Examiner, Art Unit 2626